

Notice of Allowability

Application No.

09/865,296

Examiner

Daniel S. Metzmaier

Applicant(s)

DEDEREN ET AL.

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03 June 2004.
2. ☒ The allowed claim(s) is/are 1-4,7,8,10-16,19-27,37,38,40-43,52 and 54-67.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/452,144.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 02072004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

Claims 1-4,7,8,10-16,19-27,37,38,40-43,52 and 54-67 are allowed.

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard A. Steinberg on 02 July 2004.

The application has been amended as follows:

Amendments to the Specification

Please amend and replace the first paragraph at page 1, following the title with the following paragraph. Said amendment was filed 29 May 2001.

This application is a continuation of U.S. Application No. 09/452,144, which was filed on December 1, 1999, now abandoned. This application claims the benefit of U.S. Provisional Patent Application No. 60/111,440, which was filed on December 8, 1998. This application also claims the benefit of priority of Great Britain Patent Application No. 9826699.2, filed on December 5, 1998. This application is also related to PCT application number PCT/GB99/03969, filed November 29, 1999.

Amendments to the Claims:

The following claims will replace all prior versions of the claims in this application (in the unlikely event that no claims follow herein, the previously pending claims will remain):

1. (Previously presented) A personal care or cosmetic oil-in-water emulsion in the form of a milk or cream comprising: at least one oil; water; and an emulsifier stabilizer system composed of

- (a) from 0.02 to 1.5% by weight of the emulsion of total oil emulsifier component, wherein the oil emulsifier component comprises at least one or more non-ionic emulsifier(s) selected from the group consisting of at least one alkoxyate emulsifiers, fatty acid esters, ethers, hemi-acetals of polyhydroxylic compounds, acetals of polyhydroxylic compounds, and a fatty acid amides which are N-substituted with the residue of a polyhydroxylic compound, and
- (b) a polysaccharide combination of a Xanthan polysaccharide and a polyglucomannan polysaccharide which is present from 0.02 to 0.5% by weight of the emulsion.

2. (Previously presented) The emulsion as claimed in claim 1, wherein the polyglucomannan polysaccharide comprises random glucose/mannose backbone at a molar ratio of glucose to mannose of from 1:1.5 to 1:3.

3. (Previously presented) The emulsion as claimed in claim 1, wherein the polyglucomannan polysaccharide is a polyglucomannan derived from Konjak.

4. (Previously presented) The emulsion as claimed in claim 1, wherein the weight ratio of Xanthan to polyglucomannan is from 1:10 to 10:1.

5. (Cancelled).

6. (Cancelled).

7. (Previously presented) The emulsion as claimed in claim 1, wherein the non-ionic emulsifier is at least one alkoxylate emulsifiers.
8. (Previously presented) The emulsion as claimed in claim 1, wherein the non-ionic emulsifier is at least one fatty acid esters.
9. (Cancelled).
10. (Previously presented) The emulsion as claimed in claim 1, wherein the oil emulsifier component comprises at least one alkoxylate emulsifier with an average of from 10 to 100 alkylene oxide residues and having an HLB greater than 12 and the amount of emulsifier used is from 0.04 to 0.1% by weight of the emulsion.
11. (Previously presented) The emulsion as claimed in claim 1, wherein the oil emulsifier component includes at least one hydrophilic non-ionic emulsifier having an HLB of at least 12 and at least one hydrophobic non-ionic emulsifier having an HLB of less than 8.
12. (Previously presented) The emulsion as claimed in claim 11, wherein the hydrophilic emulsifier comprises at least one of alkoxylate emulsifiers with an average of from 10 to 100 alkylene oxide residues; sugar mono-esters; polyglycerol mono-esters; hydrocarbyl polysaccharides; fatty acid glycerol esters where the fatty acid has 8 to 12 carbon atoms; and fatty acid N-sugar amides, and wherein the hydrophobic emulsifier comprises at least one of alkoxylate emulsifiers with an average of from 2 to about 10 alkylene oxide residues; glycerol esters where the fatty acid has 14 to 24 carbon atoms; and anhydrosaccharide fatty acids.
13. (Previously presented) The emulsion as claimed in claim 12, wherein the amount of the hydrophilic emulsifier is from 0.04 to 0.5% by weight of the emulsion and the amount of the hydrophobic emulsifier is from 0.1 to 1% by weight of the emulsion.

14. (Previously presented) The emulsion as claimed in claim 1, wherein the oil phase comprises an emollient oil.
15. (Previously presented) The emulsion as claimed in claim 14, wherein the emollient oil comprises at least one normally liquid emollient oil selected from the group consisting of mineral oils, paraffin oils, vegetable glyceride oils, animal glyceride oils, synthetic ester oils, synthetic ether oils, silicone oils, fatty alcohol propoxylates, a solid liquefiable emollient fat, a solid liquefiable emollient wax, and mixtures thereof.
16. (Previously presented) The emulsion as claimed in claim 1, wherein the oil phase is at least 5% by weight of the emulsion.
17. (Cancelled).
18. (Cancelled).
19. (Previously presented) The emulsion as claimed in claim 1 in the form of a cream comprising at least one thickener selected from fatty amphiphiles or synthetic thickeners.
20. (Previously presented) The emulsion as claimed in claim 1 comprising:
from 1 to 80% by weight of at least one oil;
from 0.02 to 1.2% by weight of at least one alkoxide emulsifier having an HLB of at least 12;
optionally from 0.1 to 1.2% by weight of at least one emulsifier having an HLB of less than 8;
the total amount of emulsifier being from 0.02 to 1.5% by weight;
from 0.02 to 0.5% by weight of at least one polysaccharide stabilizer;
optionally from 0.1 to 10% by weight of at least one thickener selected from fatty amphiphiles or synthetic thickeners;
the remainder being minor components and additives and water.

21. (Previously presented) The emulsion as claimed in claim 1 comprising:

from 1 to 80% by weight of at least one oil;

from 0.02 to 1.2% by weight of at least one emulsifier having an HLB of at least 12 selected from the group consisting of a fatty acid ester, ether, hemi-acetal or acetal of a polyhydroxylic compound, and a fatty acid amide which is N-substituted with the residue of a polyhydroxylic compound;

optionally from 0.1 to 1.2% by weight of at least one emulsifier having an HLB of less than 8;

the total amount of emulsifier being from 0.02 to 1.5% by weight;

from 0.02 to 0.5% by weight of at least one polysaccharide stabilizer;

optionally from 0.1 to 10% by weight of at least one thickener selected from fatty amphiphiles or synthetic thickeners;

the remainder being minor components and additives and water.

22. (Previously presented) The emulsion as claimed in claim 1 having a pH of from 4 to 9.

23. (Previously presented) The emulsion as claimed in claim 1 comprising one or more of: preservatives; perfumes; humectants or solvents; sunfilter or sunscreen materials; alpha hydroxy acids; self-tanning agents; antimicrobial components; Vitamins and their precursors; skin care agents; phospholipids; vesicle-containing formulations; germanium-containing compounds; botanical extracts; skin whiteners; skin repair compounds; caffeine; cooling additives; insect repellents; essential oils; and pigments.

24. (Previously presented) A method of making an emulsion as claimed in claim 1 by direct emulsification, wherein the emulsifier(s) and polysaccharide stabilizer are incorporated into the aqueous phase, optionally including thickener components in the aqueous phase, and then mixing the oil into the aqueous continuous phase to emulsify it.

25. (Previously presented) The method as claimed in claim 24, wherein the polysaccharide stabilizer in the aqueous phase is heated to above about 60°C and is optionally subjected to high intensity mixing.

26. (Previously presented) The method of making an emulsion as claimed in claim 1 by inverse emulsification, wherein the emulsifier(s) and polysaccharide stabilizer are incorporated into the oil phase and the aqueous phase is then mixed into the oil phase until the system inverts to form an oil-in-water emulsion.

27. (Previously presented) The method as claimed in claim 26, wherein the polysaccharide stabilizer in contact with the aqueous phase is heated to above about 60°C, and is optionally subjected to high intensity mixing.

28-36. (Cancelled).

37. (Previously presented) The emulsion as claimed in claim 4, wherein the weight ratio of Xanthan to polyglucomannan is from 2:1 to 1:2.

38. (Previously presented) The emulsion as claimed in claim 1, wherein the polysaccharide combination of a Xanthan polysaccharide and a polyglucomannan polysaccharide is present from 0.025 to 0.15% by weight of the emulsion.

39. (Cancelled).

40. (Previously presented) The emulsion as claimed in claim 1, wherein the non-ionic emulsifier is at least one fatty acid amide that is N-substituted with the residue of a polyhydroxylic compound.

41. (Previously presented) The emulsion as claimed in claim 7, wherein the oil emulsifier component is at least one alcohol ethoxylates.

42. (Previously presented) The emulsion as claimed in claim 8, wherein the emulsion comprises one or more sugars selected from the group consisting of sucrose, fructose and glucose.

43. (Previously presented) An emulsion as claimed in claim 1, wherein the amount of oil emulsifier component is from 0.1 to 1.5% by weight of the emulsion.

44-51. (Cancelled).

52. (Previously presented) The emulsion of claim 8 wherein said fatty acid esters are saccharide esters of fatty acids and a sugar, with a mono-ester content of at least 60%.

53. (Cancelled).

54. (Previously presented) The emulsion of claim 1 wherein said oil emulsifier component is present in the amount of 0.02% by weight of the emulsion.

55. (Previously presented) The emulsion of claim 1 wherein said oil emulsifier component is present in the amount of 1.5% by weight of the emulsion.

56. (Previously presented) The emulsion of claim 1 wherein said polysaccharide combination of a Xanthan polysaccharide and a polyglucomannan polysaccharide which is present in the amount of 0.02 % by weight of the emulsion.

57. (Previously presented) The emulsion of claim 1 wherein said polysaccharide combination of a Xanthan polysaccharide and a polyglucomannan polysaccharide which is present in the amount of 0.5 % by weight of the emulsion.

58. (Previously presented) The emulsion of claim 1 wherein said oil emulsifier component is present in an amount of from 0.02 to 0.25% by weight of the emulsion, and

wherein said polysaccharide combination of a Xanthan polysaccharide and a polyglucomannan polysaccharide is present in an amount from 0.02 to 0.25 % by weight.

59. (Currently amended) A personal care or cosmetic oil-in-water emulsion with good body and skin feel in the form of a milk or cream comprising: at least one oil; water; and an emulsifier stabilizer system composed of

- (a) from 0.02 to 1.5% by weight of the emulsion of ~~an~~ total oil emulsifier component, wherein the emulsifier comprises at least one or more non-ionic emulsifier(s) selected from the group consisting of at least one alkoxyate emulsifiers, fatty acid esters, ethers, hemi-acetals of polyhydroxylic compounds, acetals of polyhydroxylic compounds, and a fatty acid amide amides which is are N-substituted with the residue of a polyhydroxylic compound, and
- (b) a polysaccharide combination of a Xanthan polysaccharide and a polyglucomannan polysaccharide which is present from 0.02 to 0.5% by weight of the emulsion.

60. (Previously presented) The emulsion as claimed in claim 59, wherein the polyglucomannan polysaccharide is a polyglucomannan derived from Konjak.

61. (Previously presented) The emulsion as claimed in claim 59, wherein the non-ionic emulsifier is at least one alkoxyate emulsifiers.

62. (Previously presented) The emulsion as claimed in claim 59, wherein the non-ionic emulsifier is at least one fatty acid ester.

63. (Previously presented) The emulsion as claimed in claim 59, wherein the oil phase is at least 5% by weight of the emulsion.

64. (Previously presented) The emulsion as claimed in claim 59 in the form of a cream comprising at least one thickener selected from fatty amphiphiles or synthetic thickeners.

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65. (Previously presented) The emulsion as claimed in claim 59, wherein the non-ionic emulsifier is at least one fatty acid amide that is N-substituted with the residue of a polyhydroxylic compound.

66. (Previously presented) An emulsion as claimed in claim 59, wherein the amount of said oil emulsifier component is from 0.1 to 1.5% by weight of the emulsion.

67. (Previously presented) The emulsion of claim 59 wherein said oil emulsifier component is present in an amount of from 0.02 to 0.25% by weight of the emulsion, and wherein said polysaccharide combination of a Xanthan polysaccharide and a polyglucomannan polysaccharide is present in an amount from 0.02 to 0.25 % by weight.

Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance: attention is directed to paragraphs 5 and 6 of the last Office Action. Furthermore, the prior art does not disclose or fairly suggest the compositions set forth in claims 1 or 59 and those claims dependent thereon.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

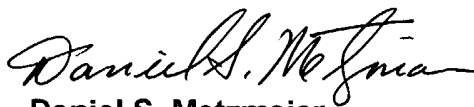
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (703) 308-0451. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel S. Metzmaier
Primary Examiner
Art Unit 1712

DSM